



Signed and Filed: June 21, 2022

A handwritten signature in black ink, reading "Hannah L. Blumenstiel", is written over a horizontal line.

HANNAH L. BLUMENSTIEL
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

| | | |
|--------------------------|---|----------------------------|
| In re: |) | Case No. 19-31024 HLB |
| |) | |
| RICHARD TOM, |) | Chapter 7 |
| |) | |
| Debtor. |) | |
| |) | |
| MARK NG, KENDALL NG, and |) | |
| LORAIN WONG, |) | Adv. Proc. No. 19-3065 HLB |
| |) | |
| Plaintiffs, |) | |
| v. |) | |
| |) | |
| RICHARD TOM, |) | |
| |) | |
| Defendant. |) | |

EIGHTH ORDER REGARDING DISCOVERY DISPUTE

On or about June 10, 2022, the court received a letter (the "June 10 Letter") from counsel for Plaintiffs Mark Ng, Kendall Ng, and Loraine Wong pursuant to Paragraph D of the court's Practices & Procedures, requesting assistance with yet another discovery dispute that has arisen between Plaintiffs and Defendant Richard Tom, who now represents himself.¹ Plaintiffs request leave to conduct more than 10 depositions, explaining

¹ On June 10, 2022, the court approved the withdrawal of Mr. Tom's counsel (Dkt. 114).

1 that such discovery is "necessary to obtain information directly
2 related to the nondischargeability action."

3 Plaintiffs' complaint asserts three causes of action, each
4 of which demand a judgment declaring debts owed to them by Mr.
5 Tom nondischargeable. Only Plaintiffs cause of action under
6 section 523(a)(2)(A)² is relevant to this discovery dispute. Via
7 that cause of action, Plaintiffs seek a judgment declaring
8 nondischargeable debts arising from the following pre-petition
9 transfers, in which Plaintiffs allege Mr. Tom engaged with the
10 intent to hinder and delay Plaintiffs' efforts to collect a pre-
11 petition judgment:

- 12 • November 16, 2007 Transfer of 50% interest in real
13 property located at 532-536 Green Street, San
14 Francisco, CA (the "Property") to Green Oasis L.P.
15 ("GOLP");
- 16 • Transfer of 4% interest in GOLP to Giovanni Torrocca;
- 17 • Transfer of 32% interest in GOLP to Ms. Winnie Jiang;³
18 and
- 19 • Transfer of 14% interest in GOLP to God's Grace
20 Irrevocable Trust.

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23 ² Unless otherwise indicated, all statutory citations shall refer to Title 11
24 of the United States Code, aka the "Bankruptcy Code". In addition, all
25 citations to a "Bankruptcy Rule" shall refer to one of the Federal Rules of
Bankruptcy Procedure and all citations to a "Civil Rule" shall refer to one of
the Federal Rules of Civil Procedure.

26 ³ On February 16, 2022 (Dkt. 45; the "Feb. 16, 2022 Order"), the court granted
27 Plaintiffs' Motion for Summary Adjudication. As relevant to this Order, the
28 Feb. 16, 2022 Order concluded that Mr. Tom's transfer of a 32% interest in
GOLP to Ms. Winnie Jiang was intentionally fraudulent and that a debt equal to
the value of such interest was nondischargeable under section 523(a)(2)(A).
The value of that 32% interest has yet to be adjudicated.

1 In an effort to obtain information about these transfers,
2 their potential value, and the bases therefor, Plaintiffs have
3 sought discovery from several entities and individuals and
4 entities. In their June 10 Letter, Plaintiffs contend that they
5 also need to depose Mr. Tom, God's Grace Irrevocable Trust
6 (through a witness designated under Civil Rule 30(b)(6) and
7 Bankruptcy Rule 7030), Mimi Chao, Samuel Ray, and former tenants
8 of the Property. Plaintiffs allege that "Richard Tom made
9 numerous and complex fraudulent transfers to multiple entities,"
10 and that "[e]ven after years of investigation, Plaintiffs still
11 do not know the full extent of these transfers." Plaintiffs
12 insist that the additional depositions are necessary to further
13 their investigation of Mr. Tom's allegedly fraudulent conduct.

14 At the court's request, Mr. Tom responded to the June 10
15 Letter on June 17, 2022 (the "June 17 Letter").⁴ For the most
16 part, Mr. Tom's letter constitutes a misguided effort to refute
17 the merits of Plaintiffs' complaint. He denies having
18 misappropriated funds and asks the court to deny Plaintiffs'
19 request to take more than 10 depositions. The June 17 Letter is
20 entirely useless to the resolution of this discovery dispute.

21 But Plaintiffs have entirely failed to explain the relevance
22 of many of the proposed deponents' testimony to the transfers
23 their Complaint places in issue. For example, Plaintiffs assert
24 that they need to depose Mimi Chao because they suspect she
25 received "gifts and checks" from Mr. Tom. According to
26

27 ⁴ Contrary to the court's instructions and contrary to Paragraph D of the
28 court's Practices & Procedures, Mr. Tom submitted an exhibit with his June 17
Letter, which the court has ignored.

1 Plaintiffs, "[w]hether those transfers happened, what exactly the
2 transfers were, and whether they were fraudulent are relevant to
3 Plaintiffs' 523(a)(2) claims." The court fails to see how
4 transfers of money or other assets to Ms. Chao relates to the
5 transfers described in Plaintiffs' Complaint.

6 As to proposed deponent Samuel Ray, Plaintiffs explain that
7 Mr. Ray is an attorney with the law firm Colla & Ray, which
8 allegedly performed work for GOLP. Plaintiffs contend that they
9 need to depose Mr. Ray "for the limited purpose of determining
10 the identity of Colla & Ray's client, the sources of monies paid
11 to Colla & Ray, and the contracts with the third-party restaurant
12 rental." The court fails to see how testimony on these subjects
13 relates to the transfers identified in Plaintiffs' Complaint.

14 Plaintiffs assert that they need to depose former tenants at
15 the Property "to confirm when and how their rents are being
16 paid." The court fails to see how such testimony relates to the
17 transfers identified in Plaintiffs' Complaint.

18 Certainly, Plaintiffs are entitled to take Mr. Tom's
19 deposition, if they have not already done so. Plaintiffs are
20 also entitled to take the deposition of God's Grace Irrevocable
21 Trust through its Civil Rule 30(b)(6) witness, if they have not
22 already done so, as it allegedly received one of the transfers
23 identified in the Complaint.

24 Accordingly, the court **ORDERS** as follows:

25 **1.** To the extent Plaintiffs request leave to depose Mimi
26 Chao, Samuel Ray, and former tenants at the Property, such
27 request is hereby **DENIED**.

1 2. Plaintiffs' request for leave to depose Richard Tom is
2 hereby **GRANTED**, and Mr. Tom shall make himself available for
3 deposition prior to **July 30, 2022**. Failure to timely comply with
4 this order may result in the imposition of sanctions.

5 3. Plaintiffs' request for leave to depose God's Grace
6 Irrevocable Trust is hereby **GRANTED**.

7 4. The June 30, 2022 Fact Discovery Deadline; July 27,
8 2022 Expert Disclosure Deadline; August 29, 2022 Rebuttal Expert
9 Disclosure Deadline; and September 28, 2022 Expert Discovery
10 Deadline are hereby **SUSPENDED** pending completion of the discovery
11 required by this Order.

12
13 ****END OF ORDER****
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Court Service List

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